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Review Article

Understanding the Protection and Rehabitation of Juvenile Deliquents in India: Issues and Challenges

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Abstract

Children are our nation's most valuable resource, and everyone has a duty to make sure kids live in a safe environment. Though, in a developing nation like India, the rate of juvenile crime has significantly increased during the last decade. In recent times, Juveniles were found to be involved in most heinous of the crimes such as murder, gang rape etc. Juveniles have got serious forms of delinquent behaviour which may hamper the stability and social command of our society. The National Crime Records Bureaudata reveals a graver concern that there has been a steady increase in the gravity of heinousness and gruesomeness of the crimes committed by juveniles, of late, and almost 30% of them are from the age group of 12 to 16 years. The data on the incidence of juvenile crimes is disturbing if statistics were the only criteria to measure juvenile delinquency in India. The figures from the National Crimes Records Bureau states that across the country, a total of 31,170 cases were registered against juveniles in 2021, showing a 4.7% increase over the year 2020 when 29,768 were registered. What is most disturbingfactor is that a majority of the child 76.2% were in the age group of 16 to 18 years. The crime rate among juveniles had also risen from 6.7% to 7.0%, as per the statistics of National Crime Records Bureau. It is to be noted that as a plant needs protection, nourishment and proper environment to grow into a big fruit - bearing tree, a child also needs protection, promotion, nourishment and proper environment to grow into a useful and responsible citizen. Proper Health, Education and Environment for the children are the imperative needs of the hour. Thus, in this context, this author explores the causes, consequences and interventions related to juvenile delinquency in India and also shed light on the complex dynamics surrounding the juvenile delinquency.

Keywords: Juvenile offenders, correctional homes, rehabilitation, juvenile delinquency, juvenile justice.

INTRODUCTION

Juvenile Delinquency is a major concern worldwide, and it is not confined to a particular country or a particular generation, it is a global phenomenon. Juvenile delinquency is a complex socio-legal issue that arises from various factors such as family dysfunction, poverty, peer pressure, substance abuse, and mental health disorders. It is a serious problem that affects communities, families, and individuals. It can have long-term

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negative consequences for the individual as well as the society as a whole. It is essential to understand the root causes of juvenile delinquency to prevent it from occurring and intervene early to provide appropriate support and resources to those at risk. The criminal justice system and social service agencies play a significant role in addressing juvenile delinquency and rehabilitating young offenders.[1]

Juvenile delinquents are those who have not attained the age of adulthood as per the law of the land, and have yet, acted in a manner that is prohibited by law. Such prohibited behaviour largely consists of acts that would be termed as offences under criminal law when committed by adults. Poverty, unemployment, exposure to and experience of violence, abuse, inequalities and changing values are bound to impact children and their behavior. There is a complex mix of social, economic and human factors that contribute to juvenile delinquency. Risk factors contributing to juvenile delinquency may be categorized as individual risk, family risk, mental health risk and substance abuse risk.[2] It is pertinent to note that the Juvenile Delinquency is one of the major issues relating to causes ranging from war and unemployment to parental incapacity. Statistical data in many countries show that delinquency is largely a group phenomenon. Between two-thirds and three-quarters of all offences committed by young people are committed by members of gangs or groups, which can vary from highly structured criminal organizations to less structured street gangs. Even those young people who commit offences alone are likely to be associated with groups. Juvenile Delinquency is widely considered a complex problem that exacts a substantial and continuing toll on the society[3] (Mulvey *et al.*, 1997). It occurs in both simple and complex societies and is often a result of affected relationships between a group of individuals leading to maladjustment and conflict (Haque, 2012). Abotchie (1997) posits that, for societies with accepted modes of conduct, deviance is predictable. Juvenile Delinquency is a serious challenge to the family, public safety, the lives of young people themselves and law enforcement agencies at large. This means that the country would have to bear a lot of cost in dealing with issues of crime. It is a major challenge most children go through regularly and this to a large extent affects their physical, psychological and societal needs at large (Brown, 2005). According to UN Centre for Societal Development and Humanitarian Affairs (2000), delinquency has increased because of political, social and economic instability across India. Juvenile delinquency is a situation that every country tries to curb not losing sight of the fact that if young offenders are not nurtured well, they may grow to becomecriminals.[4]

Concept of Juvenile Justice:

Juvenile justice is probably the area that's most ripe for reform, in the nice liberal sense of the word, simply because there's no getting around the fact that a teenage brain is not an adult brain. Juvenile misbehaviour has far-reaching consequences for young people and poses a serious danger to social stability. The number of juvenile offenders in India has been steadily increasing over the last several years, demonstrating the necessity for targeted strategies to kerb this growing issue. Juvenile criminals who have committed serious offences are sent to facilities known as reformatory homes. Juvenile offenders who are placed in these homes have the opportunity to heal from their behavioural problems, learn new skills, and re-join society as responsible adults. The authorities and the juvenile offenders imprisoned in these institutions face a variety of challenges that make rehabilitation and reintegration more difficult. The most important aspect of juvenile justice is whether to treat the juveniles with punishment or to provide for rehabilitation of the juvenile. As, we all know the sentencing of an individual convicted of a criminal offence is mainly driven by three key considerations, they are retribution (punishment), deterrence and rehabilitation.[5] In the case of juvenile offenders, the principle of rehabilitation is often assigned the greatest weight.

Thus, juvenile delinquency is an antisocial act that is illegal or criminalistics in nature done persistently by a minor and cannot be handled by the parent or guardian but requires the help of law enforcement agencies as the act threatens the well-being of the society.

Causes of Juvenile Deliquency

In recent times, the juvenile delinquency is increasing day by day. As we all know that it is a learnt behaviour, the juveniles learns it from the family, peer groups, school and society members. In a society, a child is considered as a greatest national asset. The proper parenting and care will nurture the child in a proper way and will prevent them to become delinquents. It has been accepted that due to some situations and environment, children become delinquent. The family influence, social environment, school and

neighbourhood, peer group and sexual abuse all these develops low self-esteem in children. In the changing scenario, the family system has been changed due to globalization, industrialization, urbanization, modernization, have led to change in the economic structure and joint family system. Due to all these changes some problems arise in the family such as lack of proper parental supervision, ongoing parental conflict, neglect and abuse such as emotional, psychological or physical. Those children that have weakest attachment to their parents and families are engage in inappropriate activities. There are so many others factors which contribute to the juvenile delinquency, out of which, there are few of them are low socio-economic status, large family size, illiteracy, poor parental care, family conflict, neighbourhood environment, peer group, media, revenge, academic performance, drug abuse, unemployment, anger etc. All these factors are responsible for anti-social behaviour of juvenile. A minor who has a lower in intelligence and who does not receive a proper love, affection, education and socialization in childhood period, is more prone to become a juvenile delinquent. It is quite possible for anybody of this age group, to do any type of criminal offence. Thus, how to rear and bear the kids is a great challenge for the presents in this modern society, where each and every thing is challenging for juveniles, due to globalization and information technology.[6]

There is no single cause of juvenile crimes, but there are varied causes such as biologicalcauses[7], socio-environmental causes i.e. Migration[8], cultural crossroads, Family background.[9]

PROTECTION OF JUVENILES AT INTERNATIONAL LEVEL

International child welfare is a serious issue. The UN General Assembly established UNICEF in 1946 to help European children after World War II. It joined the UN permanently in 1953. It provides services and supplies and shapes policy and finances to defend children's rights. Government, NGOs, UN Agencies, and businesses interact.[10] Depriving children of happiness is a crime against humanity. The Convention on the Rights of the Child requires nations to ensure that no child is forced to testify or acknowledge crime, and subjected to abuse or inhumane treatment or punishment. The administration of juvenile justice must aim at a child-friendly approach and work for the best interest of the juveniles. Vandalism, theft of items from any store and initiating or involving in a fight that causes injury to the public are some of the common examples of juvenile delinquency. This Universal Declaration of Human Rights is a common standard of achievement for all people and nations, so individuals and organs of society shall strive by teaching and education to promote respect for those rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance. Further, Principle-1 of the said Declaration of the Rights of Child[11] says that "the child shall enjoy all the rights set forth in this declaration. Every child without any exception what-soever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family."It is to be noted that Art. 10(3) of ICESCR, 1966, specifies that "particular measures of protection and aid shall be adopted on behalf of all children and young people without any discrimination for grounds of parentage, or other circumstances." Child and youth should be shielded from social and economic explanations.[12] The Beijing Rules, 1985[13], The Convention on the Rights of the Child, 1989, The Riyad Guidelines, 1990[14], Vienna Guidelines, 1997[15], are formulated in regard to the protection of the child at international level.

DEVELOPMENT OF JUVENILE JUSTICE IN INDIA

It is to be noted that during pre-independent movement, differentiated treatment of children dates all the way back to the Code of Hammurabi in 1790 BC, when the family was entrusted with the obligation of their monitoring and upkeep. Lord Cornwallis founded the first centre for these children, nicknamed 'Ragged School' during the colonial administration in 1843. After 1850, the Apprentices Act was created, which was the first law to demand occupational training for youths between the ages of 10 and 18, who were convicted in court. Another key piece of legislation was the Reformatory School Act, 1897.[16] Additionally, the Criminal Procedure Act of 1898 provided for specific handling of minor criminals. Probation was available to criminals up to the age of twenty-one for good behaviour. The Indian Jail Committee drafted the Indian Children Act (1919-1920).[17] The above Statutes included the provisions for the establishment of a dedicated juvenile justice system.

Following theindependence of India, the Constitution included the provisions for the protection and development of children under the Fundamental Rights and Directive Principles of State Policy. The Government of India enacted the Children Act 1960.[18] The Juvenile Justice Act of 1986 was enacted to ensure consistency with the Children Act and to establish a norm for juvenile protection consistent with the 1959 United Nations declaration of the child. Following these declarations, the Government of India finally decided to enact the Juvenile Justice Act 2000.[9] The Act mandates the care, protection, treatment, development, and restoration of neglected and delinquent children, as well as the necessary machinery and infrastructure. The Juvenile Justice Act of 1986 has been repealed. The Act renamed delinquent and neglected children as "children in conflict with the law" and "children in need of care and protection." This Act establishes the Juvenile Justice Board to provide juvenile justice. The Act also establishes a Child Welfare Committee to deal with child-related issues. This Act addresses children's basic needs and protects their human rights. Infants in need of immediate assistance may be placed in observing homes or shelters for the duration of the investigation. The Act prohibits the imposition of death, life imprisonment, and prison without fine or security. Important aspects of the Act include removing disqualification and publishing the juvenile's name, address, etc. in any newspaper or magazine.[19] Further, it is pertinent to mention that the Juvenile Justice (Care and Protection of Children) Act, 2015,[21] provides a comprehensive framework for the care, protection, treatment, and rehabilitation of children in conflict with the law. The key components of the juvenile justice system in India include specialized Juvenile Justice Boards and Child Welfare Committees. JJBs are responsible for the adjudication of cases involving children, while CWCs focus on the care, protection, and rehabilitation of children in need of care and protection. The Act emphasizes diversion, encouraging the use of alternative measures to avoid formal court proceedings. It recognizes the importance of social reintegration and community-based rehabilitation, promoting the involvement of families, guardians, and local community organizations in the rehabilitation process. Additionally, the Act prohibits the sentencing of children to adult jails and promotes the establishment of special homes and observation homes for their care and rehabilitation. It also includes provisions for the appointment of probation officers and social workers to support the rehabilitation efforts.

REHABILITATION OF JUVENILE JUSTICE OFFENDERS

It is to be noted that the rehabilitation is a learning process that is likely to alter the offender's attitudes about both themselves and the institutions of the society. The aim of the criminal justice system is at the security of the society and punishment of the offenders while the juvenile justice system aims to rehabilitate the juveniles into the society as responsible citizens as locking up juveniles with adult criminals may make more susceptible to crimes. The notion of rehabilitation is one of the growing concepts, and stakeholders from many academic institutions are working to improve its implementation throughout the criminal justice system for the reintegration of criminals back into society. In addition to increasing motivation to seek social approval and respect for others' rights, the rehabilitation helps people develop more realistic perceptions of their place in society. Further, an offender will conform to the rehabilitative goals of the prison regime, once he feels that he will be treated warmly upon returning to the society. To ensure that the prisoner maintains a disciplined life after release, correction should only be used as a part of the rehabilitative process. Juvenile Justice adopted the path of reformation of children found to have committed an offence through various community based reformative and rehabilitative measures and using institutionalization as a measure of last resort and for the minimum period till suitable community based alternatives are found for them.

The Juvenile Justice (Care and Protection of Children) Act, 2015, caters to the basic needs of children through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach and disposal of matters in the best interest of children and for their rehabilitation through process provided and the institutions established under the Act. The process of rehabilitation includes a network of different professionals. These professionals have to undertake this difficult task within a limited time frame. All our strategic interventions are aimed to improve the rehabilitation process for the children in conflict with law. The Statute aims for rehabilitation of children because they have not yet completely understood their act and

its repercussions these minds are fragile and act considers to give them a new chance towards new life by the principle of fresh start wherein all the records and acts of juvenile will be erased from the system itself.[22] The Act has defined a set time limit under which proceedings must be taken care of this acts as a safeguard for children as they get speedy trial in languishing the criminal system, wherein the atmosphere is also cordial for the child. The child if found guilty then the Board has a series of punishments which can be implemented, but all these punishments have an underlying concept of rehabilitation such as vocational school or living in special home these punishments are ultimately rehabilitating the child in conflict with law. The Act also takes care of the punishments such as death penalty or life imprisonment which cannot be inflicted on the juvenile because the Act believes that juveniles can be rehabilitated in the society.

In India, the juvenile justice system lays a significant emphasis on the process of rehabilitation, encompassing various components such as educational and vocational programmes, counselling services, life skills training, and psychosocial support. These programmes have been specifically intended to facilitate the development of life skills among youngsters, tackle the underlying factors contributing to their delinquent behaviour, and facilitate their successful reintegration into society as accountable and industrious members. Notwithstanding the emphasis on rehabilitation, the juvenile justice system has a multitude of obstacles, which encompass as overcrowding and poor conditions, some childcare institutions are overloaded and lack proper facilities and resources, which might prevent effective rehabilitation. The protraction of judicial proceedings can have detrimental consequences for rehabilitation endeavours, since it may result in prolonged durations of incarceration for minors. The process of reintegrating into the society can provide significant challenges for those who have been involved in juvenile offences, mostly due to the presence of societal stigma. The presence of discriminatory practises and limited access to chances can impede the process of rehabilitation for individuals. The presence of resource constraints, specifically limited financial and human resources, within the juvenile justice system has the potential to exert an influence on both the quality and accessibility of rehabilitation programmes. Continued endeavours are being made to tackle these problems and augment the rehabilitative dimension of the juvenile justice system in India, aligning it with global benchmarks and ensuring the paramountcy of the child's welfare is maintained throughout the entirety of the process.[23]

CONCLUSIONS AND SUGGESTIONS

There is no doubt that the juvenile justice system in India is at cross roads, carefully assessing various choices to reform the system. There is a strong voice within the society which is vouching for strict laws in order to curb the juvenile delinquency, however, there is even stronger voice which still believes that care, reformation, and rehabilitation is the best way of addressing the problem. At present, our country needs children who can grow up to be responsible citizens of tomorrow. Moreover, the development of the juvenile justice system in India has been influenced by historical, cultural, and international factors. The juvenile justice system in India is a crucial mechanism aimed at protecting the rights of children who come into conflict with the law. The system was introduced with the objective of promoting rehabilitation, reintegration, and restoration of children in conflict with the law, rather than punishment. It is pertinent to mention that ratification of the United Nations Convention on the Rights of the Child in 1989 marked a turning point, emphasizing the need for a child-friendly approach to justice and protection of children's rights. While India has made significant progress in its approach to juvenile delinquency, challenges remain. The need for a unified and effective juvenile justice system continues to be highlighted, and amendments such as the Juvenile Justice (Care and Protection) Act of 2015, have sought to address these issues. The focus on prevention and rehabilitation is vital in reducing juvenile delinquency rates. The said Act also outlines the procedures and mechanisms for dealing with such children and aims to provide a child-friendly justice system. The process for age determination is not always accurate, and there is a need for more comprehensive rehabilitation programs for children. The lack of infrastructure and resources in juvenile homes is another challenge. It is to be noted that though our country have institutions for reforming and rehabilitating juveniles but they are far from effective and the only objective that this system vouches for, is to shield the juvenile offenders from the ordinary criminal process. Unfortunately, this state of affairs is rapidly producing repeat offenders and habitual criminals, thereby triggering a debate to completely overhaul the system. However, the solution doesn't lies in a

knee-jerk kind of reaction whereby we completely change the orientation of our juvenile justice system. The orientation has been towards care, protection, reformation, and rehabilitation and there is a need to strengthen these virtues by creating better institutions, sensitising the machineryof the State and involving community in this effort.

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6. Ramesh Kumar Bhardwaj, '*Juvenile Delinquency in India – A Study*', Journal of Research in Humanities and Social Science, Volume 9, Issue 11, 2021, at p. 70
7. Biological problems such as speech and hearing problems, irritation, excessive strength etc. may lead to delinquency
8. Migration on account of wars, terrorism, genocide, ethnic cleansing or natural calamities in home country to a new place puts a person in a precarious condition where he is coerced into crime to fulfil his basic needs
9. The structure of the family is largely responsible for carving out the personality of the children. A functionally adequate family encourages growth of the child to face reality. Children are emotionally dependent on their parents in their formative years. Delinquents mostly come from functionally inadequate homes. In families, where both parents are working, the child grows up in a vacuum. Some parents have high expectations from children. When the child is unable to meet those expectations or fails to cope up with parental pressure, he is depressed. This may lead to substance abuse. In case of broken homes where either of the parent is dead or living separately, the child feels insecure and is at cross roads.
10. Aseem Prasenjit, 'An Overview of International Perspective of Juvenile Delinquency Laws', International Journal of Creative Research Thoughts', Vol. 11, Issue No. 9, 2023, at p. 917
11. General Assembly Resolution 1386 XIV, was proclaimed by General Assembly of the United Nations on 20th November, 1959.
12. International Covenant on Economic, Social and Cultural Rights, 1966 adopted by the General Assembly General Assembly resolution 2200A (XXI), on 16th December, 1966
13. United Nations Juvenile Justice Standard Minimum Rules were adopted in 1985. Beijing Rules were the first international legal instruments to specify child rights and child development-based juvenile justice standards. The Beijing standards advise states to safeguard children's rights and needs while creating specialized juvenile justice systems.
14. In 1990, United Nations Guidelines for Juvenile Delinquency Prevention (Riyadh Guidelines) were approved. Recognizing the need to develop national, regional, and international approaches and strategies for the prevention of juvenile delinquency and affirming that every child has basic human rights, including access to free education, and mindful of the large number of young people who may or may not be in conflict with the law but are abandoned, neglected, abused, exposed to drug abuse, and in marginal circumstances and at social risk, its 66 essential principles they should not be socialized or controlled.
15. They provides an overview of information received from governments about how juvenile justice is administered in their countries, with a focus on their participation in developing national action plans to promote the effective application of international rules and standards in juvenile justice
16. The Act permitted the court to imprison delinquents in reformatory schools for a period of two to seven years, but not after they reached the age of eighteen
17. Individual provincial governments gained the authority to adopt separate juvenile legislation in their own territories under this Act. Further in various years such as 1920, 1922, and 1924, the Provinces of Madras, Bengal, and Bombay each approved their own Children Acts.
18. This Act made it illegal to imprison children in any scenario and provided for their care, welfare, education, maintenance, protection, and rehabilitation. This Act applies solely to Union Territories. This Act established three tire-related institutions. A residence for observation during court procedures, a children's home for neglected children, and a special school for delinquent youngsters.
19. On December 30, 2000, the President of India signed the Juvenile Justice Act 2000.
20. Avinash Kumar Sharma, '*The Path of Juvenile Justice*

System Development n India – A Hypercritical Study of the Legislations' , International Journal of Creative Research Thoughts, Vol. 10 Issue No. 6, 2022, at p. 149.

21. Under the Act, a child is defined as a person who has not attained the age of eighteen years. It recognizes the principle of reformation and rehabilitation, focusing on the best interests of the child as a paramount consideration in all matters concerning them. The Act establishes a separate juvenile justice system that operates on the principles of child-friendly procedures, non-adversarial approaches, and confidentiality. It aims to provide a conducive environment for the physical, emotional, and social well-being of juveniles in conflict with the law.
22. Paranjpe, N. V., '*Criminology and Penology with Victimology. Allahabad: Central Law Publications*', 2017, at p. 54
23. Babulal Durgad, '*Juvenile Justice and Rehabilitation System in India, Journal of Emerging Technologies and Innovative Research*, Vol. 5 Issue No. 10, 2017, at p. 595